

STATE OF SOUTH DAKOTA
OFFICE OF PROCUREMENT MANAGEMENT
523 EAST CAPITOL AVENUE
PIERRE, SOUTH DAKOTA 57501-3182

Substance Use Disorder Treatment Services in Northeastern
South Dakota
Amended

PROPOSALS ARE DUE NO LATER THAN June 11th, 2020 by 5 PM CDT

RFP #1986

BUYER: Division of Behavioral Health

POC: Dawson Lewis
Dawson.Lewis@state.sd.us

READ CAREFULLY

FIRM NAME: _____ AUTHORIZED SIGNATURE: _____

ADDRESS: _____ TYPE OR PRINT NAME: _____

CITY/STATE: _____ TELEPHONE NO: _____

ZIP (9 DIGIT): _____ FAX NO: _____

FEDERAL TAX ID#: _____ E-MAIL: _____

PRIMARY CONTACT INFORMATION

CONTACT NAME: _____ TELEPHONE NO: _____

FAX NO: _____ E-MAIL: _____

1.0 GENERAL INFORMATION

1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

To expand adult intensive inpatient, detoxification, and intensive methamphetamine treatment services.

This RFP is issued to solicit proposals to add capacity for adult intensive inpatient, detoxification, and intensive methamphetamine treatment services in the Northeastern part of South Dakota to meet increased need.

1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER

The Division of Behavioral Health is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota, Department of Social Services. The reference number for the transaction is RFP #1986. Refer to this number on all proposals, correspondence, and documentation relating to the RFP.

Please refer to the Department of Social Services website link <http://dss.sd.gov/keyresources/rfp.aspx> for the RFP, any related questions/answers, changes to schedule of activities, amendments, etc.

1.3 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

RFP Publication	<u>April 8th, 2020</u>
Deadline for Submission of Written Inquiries	<u>May 4th, 2020 by 5 PM CDT</u>
Responses to Offeror Questions	<u>May 15th, 2020</u>
Proposal Submission	<u>June 11th, 2020 by 5 PM CDT</u>
Site Visit (if required)	<u>Week of June 22nd, 2020</u>
Anticipated Award Decision/Contract Negotiation	<u>July 1st, 2020</u>

1.4 SITE VISITS

The need for site visits will be determined based on the proposed location for services, particularly residential programming, to ensure life safety and environmental standards are met, and that the proposed facility is able to meet treatment needs.

1.5 SUBMITTING YOUR PROPOSAL

All proposals must be completed and received in the Department of Social Services by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

An original, six identical copies, and one (1) digital, Portable Document Format (PDF) copy loaded on a USB flashdrive of the proposal, all attachments, and the cost proposal(s) must be submitted.

All proposals must be signed in ink by an officer of the offeror legally authorized to bind the offeror to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope must be marked with the appropriate RFP Number and Title. The words "Sealed Proposal Enclosed" must be prominently denoted on the outside of the shipping container.
Proposals must be addressed and labeled as follows:

Request For Proposal #1986 Proposal Due June 11th, 2020 by 5 PM CDT
South Dakota Department of Social Services
Attention: Dawson Lewis
700 Governors Drive
Pierre SD 57501-2291

No punctuation is used in the address. The above address as displayed should be the only information in the address field.

No proposal may be accepted from, or any contract or purchase order awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

1.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

1.7 NON-DISCRIMINATION STATEMENT

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

1.8 RESTRICTION OF BOYCOTT OF ISRAEL

For contractors, vendors, suppliers, or subcontractors with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the bid or offer, with a person or entity on the basis of Israeli national origin, or residence or incorporation in Israel or its territories, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

1.9 MODIFICATION OR WITHDRAWAL OF PROPOSALS

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

1.10 OFFEROR INQUIRIES

Offerors may email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after May 4th, 2020. Email inquiries must be sent to Dawson.lewis@state.sd.us with the following wording, exactly as written, in the subject line: **RFP #1986 Questions**.

The Department of Social Services (DSS) will respond to offerors' inquiries by posting offeror aggregated questions and Department responses on the DSS website at <http://dss.sd.gov/keyresources/rfp.aspx> no later than May 15th, 2020. For expediency, DSS may combine similar questions. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

1.11 PROPRIETARY INFORMATION

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. ***Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected.*** The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

1.12 LENGTH OF CONTRACT

It is anticipated that this RFP may result in the selection of one provider who will enter into a provider agreement with the Department of Social Services. The provider agreement for the provision of adult intensive inpatient, detoxification, and intensive methamphetamine treatment services resulting from this RFP will be negotiated with the successful offerors based on an approved cost proposal on an annual basis.

The purchase of service contract is anticipated to begin in July 2020 and end on May 31, 2021. The continuation of the contract in future years will be dependent on the Offeror's performance in implementing the services as outlined.

1.13 GOVERNING LAW

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in Hughes County, State of South Dakota. The laws of South Dakota shall govern this transaction.

1.14 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)

An oral presentation by an offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the

time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

2.0 STANDARD AGREEMENT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include, at minimum, the State's standard terms and conditions as seen in Attachment A. As part of the negotiation process, the contract terms listed in Attachment A may be altered or deleted. The offeror should indicate in their response any issues they have with any specific contract terms. If the offeror does not indicate any contract term issues, then the State will assume the terms are acceptable.

3.0 SCOPE OF WORK

Through this RFP, the Division of Behavioral Health is seeking a treatment provider to deliver intensive adult inpatient treatment, detoxification, and intensive methamphetamine treatment services in Northeastern South Dakota to increase the capacity of treatment resources in this part of the state. Preference will be given to Offerors who will be/are able to provide all services identified in Section 3.1.

- **Intensive inpatient treatment services** are delivered in a residential treatment program which provides a structured and medically monitored intensive treatment service for clients diagnosed with a moderate to severe substance use disorder whose needs are unable to be met at a lower level of care. Services are delivered to individuals experiencing moderate to severe withdrawal or is at risk of severe withdrawal, individuals whose continued substance use causes imminent risk to biomedical conditions, or individuals whose continued substance use causes imminent risk to emotional, behavioral, and cognitive conditions, and who require intensive monitoring and support, is in immediate danger of continued severe substance use, or whose recovery environment poses a threat to safety and/or engagement in treatment.
- Individuals with substance use disorder at times may require **clinically-managed residential detoxification services** in order to safely manage imminent withdrawal symptoms. During this time, the treatment provider must provide services including an initial assessment of treatment needs, counseling services, and discharge planning to address the substance use disorder. Services are delivered to individuals experiencing signs and symptoms of withdrawal manageable at this level of care or those with evidence that withdrawal is imminent based on history of substance intake, previous withdrawal history, present symptoms, physical conditions, or emotional, behavioral or cognitive condition.
- **Intensive methamphetamine treatment (IMT) programs** offer long-term, evidence-based programming to individuals ages 18 and older with severe methamphetamine use disorder. The Division of Behavioral Health utilized ongoing technical assistance and training from expert technical consultants in conjunction with Substance Abuse and Mental Health Service Agency (SAMHSA) to identify and implement treatment modalities indicated by research as best practices in the area of methamphetamine treatment services and most likely to impact long-term recovery. IMT services provide extended treatment to allow for recovery of cognitive capacity, and may include residential services, outpatient treatment and care coordination to support long-term recovery.

The core curriculum utilized by IMT programs is the Matrix Model, which incorporates best practices for the treatment of severe methamphetamine disorders. IMT providers will assess clients for additional services including mental health counseling including Dialectical Behavior Therapy (DBT), medication management, case management, and criminal thinking programming. IMT providers will offer clients continuing care services and 12-step or self-help programs following completion of the core programming to assist clients in establishing a healthy recovery program. In addition, psychoeducation about the effects of methamphetamine on the body and the brain can be useful

components of treatment. Other services such as 12-step and other general supports may also be included in the program description. Reference material may include Chapter Four of the Surgeon General's Report on Alcohol, Drugs, and Health and the SAMHSA TIP 33 Treatment for Substance Use Disorders.

The Department of Social Services expects that some elements may be in preliminary stages of development at the time of RFP application/proposal. The offeror may receive technical assistance prior to program implementation.

Offerors must submit responses to each of the following requirements specified in sections 3.1 through 3.8:

- 3.1 **SERVICES:** The proposal must detail the offeror's plan to deliver the following substance use disorder treatment services:
- 3.1.1 **INTENSIVE INPATIENT TREATMENT SERVICES:** The proposal must indicate how the offeror will deliver medically-managed intensive inpatient treatment in accordance with ARSD § 67:61:18 Medically-Monitored Intensive Inpatient Treatment Program, including determining eligibility criteria for admission, availability of medical director, processes for medical monitoring and documentation of client conditions, and delivery of treatment services. The proposal must indicate how the offeror will support individuals that may be in need of or on prescriptions for Medication Assisted Treatment.
 - 3.1.2 **CLINICALLY-MANAGED DETOXIFICATION SERVICES:** The proposal must indicate how the program will deliver clinically-managed residential detoxification in accordance with ARSD § 67:61:17 Clinically-Managed Residential Detoxification Program, including determining eligibility criteria for admission, availability of medical director, processes for monitoring and documentation of client conditions, and delivery of treatment services.
 - 3.1.3 **INTENSIVE METHAMPHETAMINE TREATMENT (IMT) PROGRAM:** Services for the IMT program are provided in an outpatient setting and may be provided in a residential setting. Therefore, the proposal must indicate how the program will deliver IMT evidence-based programming in as described in Section 3.0 and in accordance with applicable treatment levels
- 3.2 **IMPLEMENTATION PLAN:** The proposal must identify the Offeror's plan and timeline for implementation of the services identified in Section 3.1.
- 3.3 **ACCREDITATION STATUS:** The successful Offeror will be accredited by the Division of Behavioral Health, as applicable in ARSD § 67:61 Substance Use Disorders. The proposal must indicate agreement to continue accreditation in good standing as applicable in ARSD § 67:61 Substance Use Disorders. If the Offeror is not accredited by the Division, the offeror must address how they will secure provisional accreditation by July 1, 2020, as applicable in ARSD § 67:61 Substance Use Disorders.
- 3.4 **EVIDENCE-BASED PRACTICES:** The proposal must indicate agreement to and explanation of how the program will implement expected evidence-based practices (EBPs) utilized by established IMT programs including the Matrix Model, motivational interviewing (MI), contingency management, community reinforcement approaches, and family involvement in treatment, as well as additional programming for clients identified with other treatment needs, such as Dialectical Behavioral Therapy (DBT) skills groups that focus on addiction, Moral Reconation Therapy (MRT) for criminal thinking programming, and other EBPs the offeror proposes.
- 3.5 **TRAINING NEEDS:** The proposal must identify the Offeror's training needs for the proposed evidence-based programs, if any, and any training needs related to clinical supervision for the identified evidence-based program identified in Section 3.4.

- 3.6 QUALITY ASSURANCE:** The proposal must indicate agreement that the offeror will conduct internal quality assurance/fidelity monitoring, and participate in quality assurance/fidelity reviews conducted externally by the Division or other entities, as required by the Division.
- 3.7 DATA AND PROGRAM OUTCOMES:** The proposal must indicate agreement to meet the requirements for the submission of treatment and outcome data as required by the Division of Behavioral Health.
- 3.8 TECHNICAL ASSISTANCE:** The proposal must indicate agreement to participate in ongoing technical assistance, training, and implementation meetings with the Division, consultants, and/or other IMT providers as scheduled.

4.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS

- 4.1 The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.
- 4.2 **Offeror's Contacts:** Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the point of contact of the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.
- 4.3 The offeror **May be** required to submit a copy of their most recent independently audited financial statements.
- 4.4 Provide the following information related to at least three previous and current service/contracts performed by the offeror's organization which are similar to the requirements of this RFP. Provide this information for any service/contract that has been terminated, expired or not renewed in the past three years:
- a. Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
 - b. Dates of the service/contract; and
 - c. A brief, written description of the specific prior services performed and requirements thereof.
- 4.5 The offeror must submit information that demonstrates their availability and familiarity with the locale in which the project (s) are to be implemented.
- 4.6 The offeror must detail examples that document their ability and proven history in handling special project constraints.
- 4.7 The offeror must describe their proposed project management techniques.
- 4.8 If an offeror's proposal is not accepted by the State, the proposal will not be reviewed/evaluated.

5.0 PROPOSAL RESPONSE FORMAT

- 5.1 An original and six copies shall be submitted.

- 5.1.1 In addition, the offeror must submit one (1) copy of their entire proposal, including all attachments and cost proposal(s), in PDF digital format loaded on a USB flashdrive. Offerors may not send the electronically formatted copy of their proposal via email.
 - 5.1.2 The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number.
- 5.2 All proposals must be organized and tabbed with labels for the following headings:
- 5.2.1 **RFP Form.** The State's Request for Proposal form completed and signed.
 - 5.2.2 **Executive Summary.** The one or two page executive summary is to briefly describe the offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.
 - 5.2.3 **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:
 - 5.2.3.1 A complete narrative of the offeror's assessment of the work to be performed, the offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the offeror's understanding of the desired overall performance expectations.
 - 5.2.3.2 A specific point-by-point response, in the order listed, to each requirement in the RFP as detailed in Sections 3 and 4. The response should identify each requirement being addressed as enumerated in the RFP.
 - 5.2.3.3 A clear description of any options or alternatives proposed.
 - 5.2.4 **Cost Proposal.** Cost will be evaluated independently from the technical proposal. Offerors may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.
- See section 7.0 for more information related to the cost proposal.

6.0 PROPOSAL EVALUATION AND AWARD PROCESS

- 6.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria listed in order of importance:
 - 6.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
 - 6.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
 - 6.1.3 Availability to the project locale;
 - 6.1.4 Familiarity with the project locale

- 6.1.5 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
 - 6.1.6 Proposed project management techniques;
 - 6.1.7 Ability and proven history in handling special project constraints, and
 - 6.1.8 Cost proposal.
- 6.2 Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.
- 6.3 The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.
- 6.4 The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.
- 6.5 **Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.
- 6.5.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.
 - 6.5.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached or the agency terminates the contracting process.

7.0 **COST PROPOSAL**

- 7.1 The Offeror must agree to provide treatment services based on rates established by the Division of Behavioral Health. The below rates are listed at the FY20 rates; FY21 rates will include appropriated inflationary increase.
- The Detoxification budget allocated is \$406,842 to be reimbursed at a 12 hour unit rate of \$30.18
 - The Intensive Inpatient budget allocated is \$1,257,037 to be reimbursed at a daily unit rate of \$235.93
 - The Intensive Methamphetamine Treatment budget is \$931,299 to be reimbursed as follows:
 - Residential Services: \$52.80 per day
 - Group Services: \$8.43 per 15 minute unit
 - Individual/Family Services: \$23.96 per 15 minute unit
 - Case Management Services: \$23.96
- 7.2 The Offeror must indicate if they are or are not requesting one-time and/or start-up costs. If the Offeror seeks any one-time or start-up costs, please itemize in *Attachment B – Cost Proposal for Substance Use Disorder Treatment Services in Northeastern South Dakota* and provide justification.

Attachement A

**STATE OF SOUTH DAKOTA
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF BEHAVIORAL HEALTH**

**Purchase of Services Agreement
For Provider Services
Between**

State of South Dakota
Department of Social Services
DIVISION OF BEHAVIORAL HEALTH
700 Governors Drive
Pierre, SD 57501-2291

Referred to as Provider

Referred to as State

The State hereby enters into a contract (the "Agreement" hereinafter) for procurement of goods or services. While performing services hereunder, Provider is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

1. **PROVIDER'S South Dakota Vendor Number is** _____.
2. PERIOD OF PERFORMANCE:
 - A. This Agreement shall be effective as of July 1, 2020 and shall end on May 31, 2021, unless sooner terminated pursuant to the terms hereof.
 - B. Agreement is the result of request for proposal process, RFP #1986
3. PROVISIONS:
 - A. The Purpose of this Provider contract:
 - 1.
 2. Does this Agreement involve Protected Health Information (PHI)? YES () NO (X)
If PHI is involved, a Business Associate Agreement must be attached and is fully incorporated herein as part of the Agreement (refer to attachment) .
 3. The Provider will use state equipment, supplies or facilities.
 - B. The Provider agrees to perform the following services (add an attachment if needed):
 - 1.
 - C. The TOTAL CONTRACT AMOUNT will not exceed \$ _____ .
Payment will be in accordance with SDCL 5-26

4. **BILLING:**

Provider agrees to submit a bill for services within (30) days following the month in which services were provided. Provider will prepare and submit a monthly bill for services. Provider agrees to submit a final bill within 30 days of the Agreement end date to receive payment for completed services. If a final bill cannot be submitted in 30 days, then a written request for extension of time and explanation must be provided to the State.

5. **TECHNICAL ASSISTANCE:**

The State agrees to provide technical assistance regarding Department of Social Services rules, regulations and policies to the Provider and to assist in the correction of problem areas identified by the State's monitoring activities.

6. **LICENSING AND STANDARD COMPLIANCE:**

The Provider agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this Agreement. The Provider will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Provider's failure to ensure the safety of all individuals served is assumed entirely by the Provider.

7. **ASSURANCE REQUIREMENTS:**

The Provider agrees to abide by all applicable provisions of the following: Byrd Anti Lobbying Amendment (31 USC 1352), Executive orders 12549 and 12689 (Debarment and Suspension), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, , Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009, as applicable; and any other nondiscrimination provision in the specific statute(s) under which application for Federal assistance is being made; and the requirements of any other nondiscrimination statute(s) which may apply to the award.

8. **RESTRICTION OF BOYCOTT OF ISRAEL:**

Pursuant Executive Order 2020-01 for contractors, vendors, supplies, or subcontracts with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more - by signing this contract, the Provider certifies and agrees that it has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit any commercial relations as related to the subject matter of the contract with any person or entity that is either the State of Israel, a company doing business in or with Israel, or a company authorized by, licensed by, or organized under the laws of the State of Israel to do business, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State of South Dakota to terminate this contract. The Provider further agrees to provide immediate written notice to the State of South Dakota if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

9. **RETENTION AND INSPECTION OF RECORDS:**

The Provider agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Provider shall retain such records for a period of six years from the date of submission of the final expenditure report. If such records are under pending audit, the Provider agrees to hold such records for a longer period upon notification from the State. The State, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement. State Proprietary Information retained in Provider's secondary and backup systems will remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Provider's established record retention policies.

All payments to the Provider by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this Agreement shall be returned to the State within thirty days after written notification to the Provider.

10. WORK PRODUCT:

Provider hereby acknowledges and agrees that all reports, plans, specifications, technical data, drawings, software system programs and documentation, procedures, files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, State Proprietary Information, as defined in the Confidentiality of Information paragraph herein, state data, end user data, Protected Health Information as defined in 45 CFR 160.103, and all information contained therein provided to the State by the Provider in connection with its performance of service under this Agreement shall belong to and is the property of the State and will not be used in any way by the Provider without the written consent of the State.

Paper, reports, forms, software programs, source code(s) and other materials which are a part of the work under this Agreement will not be copyrighted without written approval of the State. In the unlikely event that any copyright does not fully belong to the State, the State nonetheless reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and otherwise use, and to authorize others to use, any such work for government purposes.

Provider agrees to return all information received from the State to State's custody upon the end of the term of this Agreement, unless otherwise agreed in a writing signed by both parties.

11. TERMINATION:

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Provider breaches any of the terms or conditions hereof, this Agreement may be terminated by the State for cause at any time, with or without notice. Upon termination of this Agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

12. FUNDING:

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

13. ASSIGNMENT AND AMENDMENTS:

This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

14. **CONTROLLING LAW:**

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be resolved in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

15. **SUPERCESSION:**

All prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

16. **IT STANDARDS:**

Any software or hardware provided under this Agreement will comply with state standards which can be found at <http://bit.sd.gov/standards/>.

17. **SEVERABILITY:**

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, which shall remain in full force and effect.

18. **NOTICE:**

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Provider, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

19. **SUBCONTRACTORS:**

The Provider may not use subcontractors to perform the services described herein without express prior written consent from the State. The State reserves the right to reject any person from the Agreement presenting insufficient skills or inappropriate behavior.

The Provider will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Provider will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subcontractors. The Provider is required to assist in this process as needed.

20. **STATE'S RIGHT TO REJECT:**

The State reserves the right to reject any person or entity from performing the work or services contemplated by this Agreement, who present insufficient skills or inappropriate behavior.

21. **HOLD HARMLESS:**

The Provider agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Provider to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

22. INSURANCE:

Before beginning work under this Agreement, Provider shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. The Provider, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits listed below. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Provider agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Provider shall furnish copies of insurance policies if requested by the State.

A. Commercial General Liability Insurance:

Provider shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance:

Provider shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$500,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

C. Worker's Compensation Insurance:

Provider shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

D. Professional Liability Insurance:

Provider agrees to procure and maintain professional liability insurance with a limit not less than \$1,000,000.

(Medical Health Professional shall maintain current general professional liability insurance with a limit of not less than one million dollars for each occurrence and three million dollars in the aggregate. Such insurance shall include South Dakota state employees as additional insureds in the event a claim, lawsuit, or other proceeding is filed against a state employee as a result of the services provided pursuant to this Agreement. If insurance provided by Medical Health Professional is provided on a claim made basis, then Medical Health Professional shall provide "tail" coverage for a period of five years after the termination of coverage.)

23. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Provider certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by the federal government or any state or local government department or agency. Provider further agrees that it will immediately notify the State if during the term of this Agreement either it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

24. CONFLICT OF INTEREST:

Provider agrees to establish safeguards to prohibit employees or other persons from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain as contemplated by SDCL 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing. In the event of a conflict of interest, the Provider expressly agrees to be bound by the conflict resolution process set forth in SDCL 5-18A-17 through 5-18A-17.6.

25. CONFIDENTIALITY OF INFORMATION:

For the purpose of the sub-paragraph, "State Proprietary Information" shall include all information disclosed to the Provider by the State. Provider acknowledges that it shall have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. Provider shall not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this Agreement; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this Agreement; (iii) make State Proprietary Information available to any of its employees, officers, agents or providers except those who have agreed to obligations of confidentiality at least as strict as those set out in this Agreement and who have a need to know such information. Provider is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. Provider shall protect confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information shall not include information that (i) was in the public domain at the time it was disclosed to Provider; (ii) was known to Provider without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Provider without the benefit or influence of the State's information; (v) becomes known to Provider without restriction from a source not connected to the State of South Dakota. State's Proprietary Information shall include names, social security numbers, employer numbers, addresses and all other data about applicants, employers or other clients to whom the State provides services of any kind. Provider understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68 as applicable federal regulation and agrees to immediately notify the State if the information is disclosure, either intentionally or inadvertently. The parties mutually agree that neither of them shall disclose the contents of the Agreement except as required by applicable law or as necessary to carry out the terms of the Agreement or to enforce that party's rights under this Agreement. Provider acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this Agreement for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws. If work assignments performed in the course of this Agreement require additional security requirements or clearance, the Provider will be required to undergo investigation.

26. REPORTING PROVISION:

Provider agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to any person or property, or which may otherwise subject Provider, or the State of South Dakota or its officers, agents or employees to liability. Provider shall report any such event to the State immediately upon discovery.

Provider's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Provider's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Provider to report any event to law enforcement or other entities under the requirements of any applicable law.

27. COST REPORTING REQUIREMENTS:

- ☐ The Provider agrees to submit a cost report in the format required by the State, and is due four months following the end of the Provider's fiscal year.

or

☐ No reporting is required.

28. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

_____ Provider Signature	_____ Date
_____ Provider Printed Name	
_____ State - DSS Division Director Tiffany Wolfgang	_____ Date
_____ State - DSS Chief Financial Officer Laurie Mikkonen	_____ Date
_____ State – DSS Cabinet Secretary Laurie R. Gill	_____ Date

State Agency Coding:

CFDA #	_____	_____	_____	_____
Company	_____	_____	_____	_____
Account	_____	_____	_____	_____
Center Req	_____	_____	_____	_____
Center User	_____	_____	_____	_____
Dollar Total	_____	_____	_____	_____

DSS Program Contact Person _____
Phone _____

DSS Fiscal Contact Person Contract Accountant
Phone 605 773-3586

Provider Program Contact Person _____
Phone _____
Provider Program Email Address _____

Provider Fiscal Contact Person _____
Phone _____
Provider Fiscal Email Address _____

Attachment B

See Attachment B – Cost Proposal for Substance Use Disorder Treatment Services in Northeastern South Dakota.